

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA

BILLINGS DIVISION

FILED  
BILLINGS DIV.

2007 MAY 17 PM 12 55

PATRICK E. DUFFY, CLERK

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|---------------------------------------|---|----------------|
| DUBRAY LAND SERVICES, INC.            | ) |                |
| and JAMES DUBRAY,                     | ) | CV-05-130-BLG  |
|                                       | ) |                |
| Plaintiffs,                           | ) |                |
| vs.                                   | ) |                |
|                                       | ) | ORDER ADOPTING |
| SCHRODER VENTURES U.S., ANDREW        | ) | FINDINGS AND   |
| GASPAR, NICHOLAS SOMERS, and          | ) | RECOMMENATION  |
| W. MONTAGUE YORT, MESA                | ) |                |
| COMMUNICATIONS GROUP, LLC,            | ) |                |
| MESA HOLDING CO., and JOHN DOES 1-10, | ) |                |
|                                       | ) |                |
| Defendants.                           | ) |                |
|                                       | ) |                |

On April 10, 2007, United States Magistrate Judge Carolyn S. Ostby entered her Findings and Recommendation. Magistrate Judge Ostby recommends that Mesa Communications Group, LLC's Motion for Summary Judgment be granted.

Upon service of a magistrate judge's findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, Plaintiffs filed objections on April 17, 2007. Defendant Mesa Communications Group, LLC responded to Plaintiffs' objections on April 27, 2007. Plaintiffs' objections are not well taken.


After a de novo review, the Court determines the Findings and Recommendation of Magistrate Judge Ostby are well grounded in law and fact and HEREBY ORDERS they be adopted in their entirety.

Montana law requires an entity to act affirmatively to become self-insured and there is no evidence in the record that Mesa took any affirmative step to establish itself as a self-insured entity. This Court agrees that the inescapable conclusion is that Mesa was not self-insured. Additionally, it is apparent that James DuBray's claims for intentional and negligent infliction of emotional distress necessarily fail because the stated bases for the DuBrays' emotional distress claims no longer exist.

Accordingly, **IT IS HEREBY ORDERED** that Mesa Communication Group, LLC's Motion for Summary Judgment [*doc. #48*] is GRANTED.

The Clerk of Court shall notify the parties of the making of this Order.

DATED this 17 day of May, 2007.

  
\_\_\_\_\_  
RICHARD F. CEBULL  
UNITED STATES DISTRICT JUDGE